

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KPM ANALYTICS NORTH AMERICA)
CORPORATION,)
)
Plaintiff,)
)
)
v.)
)
BLUE SUN SCIENTIFIC, LLC; THE INNOVATIVE)
TECHNOLOGIES GROUP & CO., LTD; ARNOLD)
EILERT; MICHELLE GAJEWSKI; ROBERT)
GAJEWSKI; RACHAEL GLENISTER; GREGORY)
ISRAELSON; IRVIN LUCAS; and PHILIP)
OSSOWSKI,)
)
Defendants.)
)

PROPOSED ORDER

It is hereby ORDERED and ADJUDGED that:

1. KPM's Motion for Permanent Injunction is **GRANTED** in part:
2. Defendants and their agents, officers, employees and anyone acting on their behalf prohibited from using, divulging, disclosing, furnishing, or making available for their own or anyone else's benefit any of the Plaintiff's "Confidential Information" and trade secrets. Confidential Information shall include Plaintiff's confidential and non-public information; documents and data concerning research and development activities; data sets and calibration data; code; all copies of UCAL, USCAN or other software; technical specifications; show-how; how-how; marketing plans and strategies; pricing and costing policies; customer lists and data and accounts and nonpublic financial information.

3. If they have not already done so, Defendants must account for and return the information and materials they are in possession of and which belong to the Plaintiff, including any and all Confidential Information and trade secrets. This includes, but is not limited to, any and all USB or other computer drives and any copies of the contents thereof containing KPM Confidential Information in the possession of Robert Gajewski, or any other Defendant, and any and all KPM/Unity Near Infra-Red instruments, materials, equipment, supplies, components, parts, calibrations, electronic files, or physical files in the possession of Arnold Eilert;

4. Defendants Arnold Eilert, Robert Gajewski, Rachael Glenister, and Irvin Lucas are required to comply with all of the terms of their non-disclosure agreements with KPM and are prohibited from using, for their own and anyone else's benefit, or disclosing to anyone, any of KPM's trade secrets and Confidential Information.

5. The Individual Defendants and Blue Sun are prohibited until August 23, 2024 from offering to provide, providing, offering to sell, or selling to any party that Mr. Gajewski provided preventative maintenance service on behalf of Blue Sun (the "Restricted Customers" as defined in Paragraph 7) any services or products, including but not limited to any maintenance, hardware, software, or data related to any monochromator-based SpectraStar XL and XT Near Infra-Red analyzer models manufactured or sold by KPM or its predecessors in interest, including but not limited to analyzers manufactured or sold by Unity Scientific. The above prohibitions do not apply to Process Sensors Corporation's NIR filter-photometer.

6. Defendants are prohibited until August 23, 2024 from offering to sell or selling any Phoenix Near-Infrared (NIR) instrument to any Restricted Customers.

7. Restricted Customers include the following entities:

Bartlett Milling

Basic American Foods - Rexburg

Basic American Foods - Moses Lake

Hearthsides Foods - Michigan City

Jungbunzlauer

Kellogg's Canada - Belleville

Lamb Weston - American Falls

Lamb Weston - Boardman

Lamb Weston - Boardman East

Lamb Weston - Connell

Lamb Weston - Hermiston

Lamb Weston - Pasco

Lamb Weston - Quincy

Lamb Weston - Richland

Lamb Weston - Richland Tech Center

Lamb Weston - Taber

Lamb Weston - Twin Falls

Lindt Chocolate

Mariani Packing Company - Vacaville

Northern Star Mother's Milk Bank

OhioHealth Mother's Milk Bank

Olam Spices - Fernley

Olam Spices - Firebaugh

Olam Spices - Gilroy

Omega Protein

Post Consumer Brands - Battle Creek

Post Consumer Brands - Jonesboro

Saputo Cheese - Waupun

Texas Children's Hospital

Wilkins Rogers Mills